

property on any one, merely as a generous donation, without regard to any consideration of public good. The discretionary power of the General Assembly, it may be admitted, is and must be extensive; perhaps, beyond control from any other co-ordinate department of the Government; but still it must be limited by a sound regard to the general benefit of the people; and therefore, should not be allowed from a mere impulse of kindness to make a gift of the public funds to any one who had rendered no service to the State; nor done any thing that might be considered as a valuable consideration or a public benefaction. 3 *Secret Jour. Cong.* 197; 1784, ch. 37, s. 7; 1788, ch. 44, s. 20; *Construction Construed by John Taylor, of Caroline*, 261. (c)

If the unlimited discretionary power of the General Assembly themselves over the public property can be susceptible of question, surely no Court of justice should consider itself as having been clothed with any such power by that department, without the most express declaration to that effect. This Court must therefore, be extremely guarded how it assumes an authority from the Legislature to dole out the charities, or to cast abroad the bounties of the State. If however, laying aside the rules of law and equity by which the rights of property are regulated, it is to be determined upon principles of general morality, whether or not a petitioner is to be paid from the public treasury any amount he may ask or claim, then the General Assembly must be much better judges of such a matter than the Chancellor, because they are presumed to be, and are in truth, much more intimately acquainted with the feelings and disposition of the people than any single member of the judiciary can be. But I cannot allow myself to believe, that the General Assembly intended to clothe the Chancellor with any such large and unqualified powers. He is directed to decide according to the equity and right of the matter; that is, according to those established rules by which he is governed in similar cases; *not by any variable and uncertain notions of liberality and benevolence. 98

Prudential and equitable considerations ought always to curb licentious invasions of private right. 3 *Secret Jour. Cong.* 193. But the Government of this Republic by virtue of that eminent domain, which for public purposes is entrusted to all Governments,

(c) "We, (Congress,) are not the almoners of the American people, the dispensers of their charity, but agents, with limited powers, entrusted with the control of the public purse, for the sole purpose of applying it to the current exigencies of the Government, in the advancement of great principles of public policy connected with the exercise of powers substantively conferred upon us, and in the discharge of individual claims arising from our own, or the engagements of our predecessors."—*Speech of Mr. Berrien, a Senator of Georgia, in the Senate of the U. States, 30th January, 1828.*—*National Intelligencer, 19th April, 1828.*